

EXHIBIT B

E-FILED
THURSTON COUNTY, WA
SUPERIOR COURT
05/05/2022 - 10:08AM
Linda Myhre Enlow
Thurston County Clerk

SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY

CAMERON ATHAY AND JESSICA ATHAY,
husband and wife, and the marital community
comprised thereof,

Plaintiffs,

v.

STATE OF WASHINGTON, MATTHEW
CAMMER, in his individual capacity,
AND JOHN/JANE DOES 1 - 10,

Defendants.

NO. 22-2-01086-34

COMPLAINT FOR DAMAGES –
NEGLIGENCE, INTENTIONAL TORT,
AND VIOLATION OF 42 USC 1983, et seq.

COME NOW Plaintiffs herein, through their undersigned attorneys, and allege as
follows:

I. PARTIES AND JURISDICTION

1.1 Plaintiff, Cameron Athay, is now, and at all times material hereto has been,
incarcerated as an inmate with the Washington State Department of Corrections. At the time
of the incident, he was housed at the Monroe Correctional Complex, in Snohomish County.

1.2 Plaintiffs Cameron and Jessica Athay are now, and were at all times material
hereto, husband and wife. Ms. Athay resides in Grays Harbor County.

1.3 Defendant State of Washington is a governmental entity whose domicile for jurisdictional purposes is and was at all times material hereto located in Thurston County, Washington.

1.4 The Department of Corrections is a division or department of the State of Washington, with its residence for jurisdictional purposes being in Thurston County, Washington. Under the doctrine of *respondeat superior*, the State is liable for the conduct of its employees.

1.5 CO Matthew Cammer is and was at all times material hereto a corrections officer working for the Washington State Department of Corrections at the Monroe Correctional Complex. He was acting within the course and scope of his employment and under color of state law. He is sued in his individual capacity.

1.6 John/Jane Does 1-10 are individuals who were employed by the Washington State Department of Corrections at all times material hereto; or in the alternative were contractors or employees of contractors with the Department of Corrections at all times material hereto, whose names and true identities are at present unknown. Said Does may also include individuals deliberately indifferent to Mr. Athay's medical needs and/or responsible for creating and/or enforcing policy deliberately indifferent to the medical needs of inmates, including Mr. Athay. All were acting within the course and scope of their employment and under color of state law. All are sued in their individual capacity.

II. FACTS

2.1 Plaintiffs re-allege each and every allegation contained in the preceding paragraphs.

2.2 On or about May 20, 2020, Plaintiff Cameron Athay was an inmate with the Washington State Department of Corrections.

2.3 Mr. Athay was returning from the gym/yard through a full-length turnstile being manually controlled by CO Cammer.

premises, the failure to warn Mr. Athay about the unsafe nature of the premises, and CO Cammer's poor decision making. Therefore, all Defendants are liable for negligence.

SECOND CLAIM FOR RELIF
Common Law Assault and Battery
Against CO Cammer

3.3 The above-described incident in which CO Cammer caused the metal bar in the turnstile to strike Mr. Athay's face was intentional, nonconsensual, and harmful and/or offensive and directly and proximately caused Mr. Athay's injuries. Therefore, CO Cammer is liable for the intentional torts of assault and battery.

THIRD CLAIM FOR RELIF
Civil Rights Claim for Physical Abuse and Excessive Use of Force
Against CO Cammer

3.4 42 U.S. §1983 and the Eighth Amendment to the U.S. Constitution protect inmates from cruel and unusual punishment, including physical abuse and excessive force.

3.5 CO Cammer physically abused and used excessive force against Mr. Athay in violation of his Eighth Amendments rights and directly and proximately caused Mr. Athay's injuries.

FOURTH CLAIM FOR RELIF
Civil Rights Claim for Cruel and Unusual Punishment and Denial, Delay, and Withholding of Medical Care
Against Does 1-10

3.6 42 U.S. §1983 and the Eighth Amendment to the U.S. Constitution protects a detainee's right to be free from cruel and unusual punishment, including the deprivation of minimal civilized necessities.

3.7 Does 1-10 have been deliberately and recklessly indifferent to Mr. Athay's serious medical needs in violation of his Eighth Amendment rights, by failing to provide adequate treatment for Mr. Athay's fractured teeth. As a result, Mr. Athay's pain, discomfort, and risk of future complications has been exacerbated.

1 3.8 These acts and omissions by Does 1-10 were conducted within the scope of
2 their employment with the State and under color of law.

3
4 IV. DAMAGES

5 4.1 Plaintiffs re-allege each and every allegation contained in the preceding
6 paragraphs.

7 4.2 As a direct and proximate result of the negligence of Defendants, Plaintiffs
8 have sustained injuries and damages in the past, which continue presently and will continue in
9 the future, which include, but are not limited to, physical injury, pain, suffering,
10 disfigurement, and disability; mental and emotional distress and suffering, including
11 depression; reduction in the capacity to enjoy life; future cost of medical care and
12 medications; future loss of earnings and earning capacity; loss of consortium; and other
13 general and special damages which will be proven at the time of trial.

14 WHEREFORE, Plaintiffs pray for judgment against the Defendants, in amounts to be
15 proven at trial, to fully and fairly compensate Plaintiffs for the damages set forth above,
16 together with costs, attorney fees, pre- and post-judgment interest, and such other and further
17 damages as are proven at trial and the Court deems just under the circumstances.

18 Plaintiff further specifically prays for judgement for attorney fees and punitive
19 damages as provided for under 42 USC 1983, et seq

20 Dated this 3rd day of May, 2022.

21 KRUTCH LINDELL BINGHAM
22 JONES, PS

23 /s/ J. Nathan Bingham

24 /s/ James T. Anderson

25 J. Nathan Bingham, WSBA #46325

26 James T. Anderson, WSBA #40494

Attorneys for Plaintiff